

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

SUIT NO. 712)
OF 1999.)

Between

SINGAPORE AIRLINES LIMITED
[RC NO.197200078R]

... Plaintiffs

And

BRITISH AIRWAYS PLC
[RC NO.F03387K]

... Defendants

STATEMENT OF OPPOSITION

1. The Plaintiffs contend that the amendments to the specification of Singapore Patent No P33627 (the "Patent") sought by the patentee, the Defendants, are impermissible amendments and should not be allowed for the reasons set out below.
2. The Plaintiffs aver that the Defendants had previously amended the Patent specification prior to the grant of patent and that such amendment includes objectionable added matter more fully set out at paragraph 3 of the Amended Particulars of Objections filed on 30th August 1999. The Defendants are now attempting to justify their pre-grant amendments to Claim 1 which contained such objectionable added matter by adding the same objectionable matter to the description of the specification.

3. Save that the prior art cited by the Plaintiffs against the Patent as set out in the Amended Particulars of Objections, with the exception of paragraph 1(5), were considered by the examiner handling the Defendants' corresponding United Kingdom patent application, bearing GB patent No. 2295962 ("GB2295962"), no admissions are made to paragraphs 2, 3, 4 and 5 of the Statement of Reasons.
4. Paragraph 6 of the Statement of Reasons is denied. The amendments sought are not allowable for the following reasons namely:
 - (a) The amendments and/or deletions proposed in items 12 and 13 of the Schedule of Amendments would have the effect of adding matter which extends beyond that disclosed in the application as filed namely there is no disclosure in the application of the words "wherein a substantially flat surface is formed by said back and seat portion when said back portion is in reclined position and said seating portion is in said extended position".
 - (b) The amendments and/or deletions proposed in items 3 and 4 of the Schedule of Amendments would have the effect of adding matter which extends beyond that disclosed in the application as filed in so far as the consistory clauses relating to the amended claims are in issue by virtue of the claims being put in issue.
5. Paragraphs 7 and 8 of the Statement of Reasons are not admitted. Further, the matters alleged therein are irrelevant because (a) the Patent as proposed to be amended is not identical to the Defendants' corresponding United Kingdom patent, GB2295962; (b) the United Kingdom proceedings referred to are merely *ex parte* by their nature

and there is normally no discovery of documents nor is there any opportunity for cross-examination or adversarial argument; and (b) matters concerning the scope, validity and amendment of Singapore patents are matters within the exclusive jurisdiction of the Courts and/or Registrar of Patents of the Republic of Singapore, and are not pre-empted by the actions of any foreign administrative official whatsoever.

6. Paragraph 10 of the Statement of Reasons contains no reasons why this Honourable Court should exercise its discretion in favour of the Defendants and the Plaintiffs do not admit that it should be.
7. The Defendants had delayed unreasonably in seeking to amend the patent and have covetously sought to maintain claims, which the Defendants knew or ought to have known were invalid from a date shortly after 22 March 1996.
8. The Defendants have various patents and applications in various jurisdictions including the Singapore Patent; the Defendants' corresponding United Kingdom patent, GB2295962 (application No 9525263.1); European patent application No 95940345.2; and international application No PCT/GB95/02884 (the "International Application"). All of these claim priority from the same two United Kingdom patent applications No 9425078.4 and No 9511139.9. The dates and circumstances under which the Defendants had knowledge of the prior art cited by the Plaintiffs are as set out below:

<u>Date</u>	<u>Event</u>
22/03/96	An International Search Report citing Luckhardt, Universal and Kryter established by the European Patent Office in relation to the International Application was mailed to the Defendants.
06/11/96	Third party observations were filed at the United Kingdom Patent Office against GB2295962 while it was pending by M/s F. J. Cleveland, patent agents, including copies of the International Search Report and the citations.
07/03/97	Third party observations were filed at the United Kingdom Patent Office against GB2295962 while it was pending by M/s Kilburn & Strode, patent agents, which cited Gallagher.
05/12/97	Third party observations were filed at the United Kingdom Patent Office against GB2295962 while it was pending by M/s Kilburn & Strode, patent agents, which cited Dahlqvist and Kleine.
27/03/98	Third party observations were filed at the European Patent Office against European patent application No 95940345.2 by M/s Kilburn & Strode, patent agents, which cited Takara.
09/06/98	The Defendants applied to the Singapore Registry of Trade Marks & Patents to amend the application for the Patent to the form in which it was granted.

- 26/06/98 The Defendants applied to the United Kingdom Patent Office to amend GB2295962 exactly or substantially to the form of the Patent as granted.
- 16/11/98 The date of grant of the Patent.
- 06/05/99 The Defendants notified the Plaintiffs of its intention to amend the Patent substantially to the form as is now proposed in these proceedings.
- 13/05/99 The Defendants applied to the United Kingdom Patent Office to further amend GB2295962 substantially corresponding to the Patent as is now proposed to be amended in these proceedings, but with differences in at least the respective claims 1.
- 11/06/99 The Defendants applied to the United Kingdom Patent Office to again amend GB2295962 substantially corresponding to the Patent as is now proposed to be amended in these proceedings, but still with differences in at least the respective claims 1.
- 28/06/99 The Defendants applied to the United Kingdom Patent Office to again amend GB2295962 substantially corresponding to the Patent as is now proposed to be amended in these proceedings, but there remain differences in at least the respective claims 1.
- 2/08/99 The Defendants applied to the learned Registrar of Trade Marks & Patents to the amend the Patent, the subject of these proceedings.

The Defendants therefore had knowledge of the prior art referred to above since, or not long after, 22 March 1996, 7 March 1997, 5 December 1997, and 27 March 1998. The Defendants further had opportunity prior to the present application to amend their Patent in the form as is now proposed but had failed to do so.

9. The amendments sought do not cure the invalidity of the Patent.
10. In the premises, the amendments should be refused in the discretion of this Honourable Court.

Dated this 26th day of November 1999.



SHOOK LIN & BOK
SOLICITORS FOR THE PLAINTIFFS

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